

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 702 of 2005

Between:

R. parvathamma, W/o. Naga Raju, Ex. Temporary F.P. Shop dealer
R/o. Allapuram Vill, Kundurpti Mandal, Anantapur District.

... PETITIONER

AND

- 1 The Joint Collector, Anantapur, Ananthapur District.
- 2 The Revenue Divisional Officer, Dharmavaram Division,
Dharmavaram, Ananthapur District.
- 3 K. Deveerikka, W/o. Naganna,
Allapuram Village, Kundurpit Mandal, Anantapur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the proceedings of the 2nd respondent in Rc.D.Dis.No. (F)577/03 dt. 29.12.2003 and proceedings in Rc.No. K4/DMV/81/2004 dt. 27.12.2004 of the 1st respondent as illegal, arbitrary and contrary to the G.O.Ms.No.671 dt. 30.11.1996 and consequentially direct the respondent to re-notify the vacancy of the permanent F.P. Shop Dealership to Allapuram Village, Kundurpit Mandal, Anantapur District by inviting the applications from the General Category and pass such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.S.D.GOWD

Counsel for the Respondent Nos.1 and 2: GP FOR CIVIL SUPPLIES

Counsel for the respondent NO.3 : P.Veera Reddy

The Court made the following :

ORDER:

Petitioner was functioning as a temporary dealer in respect of a fair price shop of Allapuram village, Kundurpit Mandal, Ananthapur District. The second respondent issued a notification dated 01.12.2003 inviting applications for appointment of dealer for that shop. The shop was reserved in favour of physically handicapped candidates. The third respondent applied. Since the petitioner did not fall into that category, her application was not received. Thereupon, she approached this Court by filing W.P.No.25885 of 2003. Since the third respondent was already appointed by the time the writ petition came to be taken up for hearing, it was disposed of through order, dated 15.3.2004, leaving it open to the petitioner to challenge the appointment of third respondent by filing an appeal.

2. The petitioner preferred an appeal before the first respondent. The first respondent rejected the appeal through his order, dated 27.12.2004. Hence this writ petition.

3. Learned counsel for the petitioner submits that the third respondent does not hold the minimum qualification of passing 10th class, which is prescribed under G.O.Ms.No.53, dated 6.10.2003. He contends that the very reservation of the shop in favour of physically handicapped candidates was motivated and the fact that there was only one applicant, namely, the third respondent, that too, without educational qualifications, discloses that the whole exercise was improper. He contends that the appellate authority did not consider the issue raised by the petitioner and dismissed the appeal without going into the merits of the matter.

4. Learned Government Pleader for Civil Supplies and Sri P.Veera Reddy, learned counsel for the third respondent, on the other hand, submit that the petitioner does not have locus standi to challenge the appointment of the third respondent since she was not eligible, even to apply. It is also their contention that the second respondent was satisfied about the eligibility and qualification of third respondent and no exception can be taken to the order of appointment or the order of the appellate authority.

5. Petitioner has been canvassing her rights before this Court on several occasions. Ultimately, it emerged that a notification was issued by the second respondent for the purpose of appointing a regular dealer. The shop was reserved in favour of physically handicapped candidates. The petitioner made her grievance out of it. However, since the third respondent came to be appointed, it was left open to her to prosecute the remedy of appeal.

6. The main contention urged on behalf of the petitioner was that the third respondent does not hold the minimum education qualification prescribed under G.O.Ms.No.53, dated 6.10.2003. According to clause 5(1) thereof, a pass in 10th class is the minimum general education qualification for a candidate to be appointed as fair price shop dealer. Neither the order of appointment nor the order of appellate authority disclose whether the third respondent fulfilled this qualification. Such an important aspect ought not to have been left unanswered. This issue assumes significance from the fact that the third respondent is said to be the only applicant, and the allegations of the petitioner, that the entire exercise was resorted to, with a view to defeat her rights.

7. For the foregoing reasons, the writ petition is allowed and the

order dated 27.12.2004 passed by the first respondent is set aside. The matter is remanded to the first respondent for fresh consideration and he shall record a definite finding as to whether the third respondent holds the minimum qualification prescribed under G.O.Ms.No.53, dated 6.10.2003. In case, it emerges that the third respondent does not hold the minimum qualification and she is the only candidate, steps shall be taken to re-notify the shop. Till such time, the third respondent shall be entitled to hold the shop. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Dated : 24.02.2005

To

- 1 The Joint Collector, Anantapur, Ananthapur District.
- 2 The Revenue Divisional Officer, Dharmavaram Division,
Dharmavaram, Ananthapur District
- 3 2 CCs to G.P for Civil Supplies, High Court Bldgs, Hyd. (OUT)
- 4 2 CD copies.